

NOTE THE AFTER FINAL STATUS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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TC 1700

In the Application of:

ALBERTONE, ET AL.

CASE NO.: AD-6649 US NA

SERIAL NO.: 09/670,529

GROUP ART UNIT: 1771

FILED: SEPTEMBER 27, 2000

EXAMINER: JENNIFER . A. BOYD

FOR: LAMINA TE STRUCTURE

REQUEST FOR CONTINUED EXAMINATION UNDER 37 CFR 1.115

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

In response to the Final Office Action dated July 1, 2003, having a period for response extended to December 1, 2003, by the accompanying petition for a two month extension of time, please consider the following remarks.

R E M A R K S

Applicants have reviewed the Examiner's Office Action dated July 1, 2003. In the Office Action, the Examiner withdrew the rejection of the pending claims under 35 U.S.C § 112, second paragraph and Examiner changed the grounds for rejecting the pending claims under 35 U.S.C § 103(a). The Examiner asserted that the new grounds for rejection were necessitated by the previous amendment and made the action Final.

In the Office Action, the Examiner rejected pending claims 1, 2, 4-9, 11 and 12 under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 5,532,053 to Mueller ("Mueller") in view of U.S. Patent No. 4,939,009 to Beavers et al. ("Beavers"). However, neither the Mueller nor the Beavers patents are directed to or suggest laminate structures having a moisture vapor transmission rate in one direction that is greater than the moisture vapor transmission in the other direction, as is recited in independent claim 1 of the present application. It is therefore not surprising that neither of the two cited references discloses or suggests claimed arrangement of layers in the laminate that make this possible.

The Mueller reference discloses a laminate film having a first layer formed of a polyetherester copolymer and a second layer which may, among other things, comprise an ethylene-vinyl acetate copolymer. The Mueller patent further discloses that this laminate film may be bonded to a non-woven fabric. The Mueller patent fails to disclose or suggest a moisture vapor control layer comprised of a polymer film attached to and adjacent a woven or non-woven substrate, as is recited in claim 1 of the application. In addition, the Mueller patent does not disclose a tie layer that is adjacent the moisture vapor control layer such that the moisture vapor control layer is positioned between the substrate layer and the tie layer, as is also recited in claim 1. The Examiner acknowledges all this, but goes on to assert that Mueller's disclosure of a third layer of a polyolefin copolymer on the opposite side of the copolyetherester layer from the ethylene-vinyl acetate layer is equivalent to the moisture vapor control layer of claim 1 of the present application. This is plainly not the case. Covering the copolyetherester layer with a polyolefin copolymer film on the side of the copolyetherester layer opposite the tie layer would only serve to block the passage of moisture from the atmosphere to the copolyetherester layer. This, in turn, would work against the claimed differential moisture vapor permeability of the laminate structure wherein the MVTR in the direction of the away from the copolyether ester layer toward the substrate is greater than the MVTR in the opposite direction. The recited relationship of the substrate layer, the moisture vapor control layer, the tie layer and the copolyetherester layer is the essence of the invention that provides the claimed moisture vapor transmission directionality. This relationship is nowhere disclosed or suggested by the Mueller patent.

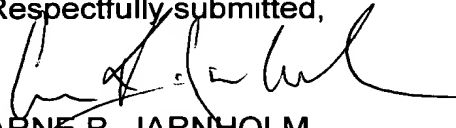
The Examiner asserts that the Beavers patent can be combined with Mueller to overcome Mueller's shortcomings discussed above. However, like Mueller, the Beavers patent is not directed to a laminate structure in which the moisture vapor transmission rate is greater in the direction from the copolyetherester layer toward the woven or nonwoven substrate layer than in the opposite direction. Indeed, Beavers does not disclose a laminate structure with a woven or non-woven substrate at all. Rather, Beavers is directed to a variety of multi-layer films. The films include "a flexible copolyetherester, a water vapor barrier layer of a polyolefin and an adhesive or tie layer for bonding the copolyetherester layer to the polyolefin layer." (column 1, lines 48-52.) Clearly, the "water vapor barrier layer" of Beavers is not a moisture vapor control layer in a laminate structure having a directional moisture vapor

transmission. Neither is the moisture vapor control layer of Beavers attached to and adjacent a woven or non-woven substrate, as is recited in claim 1. Finally, the Beavers patent does not disclose a moisture vapor control layer positioned between the substrate layer and the tie layer, as is explicitly recited in claim 1. As discussed above with regard to the Mueller patent, it is the recited relationship of the substrate layer, the moisture vapor control layer, the tie layer and the copolyetherester layer that provides the claimed moisture vapor transmission directionality. Because this claimed relationship, and the purpose of this claimed relationship, is nowhere suggested or disclosed in either the Mueller or Beavers patents, the invention recited in claim 1 of the application is not rendered obvious by the cited references. Accordingly, Applicants respectfully request that the rejection of the claims under Section 103 be withdrawn.

In view of the foregoing remarks, Applicants assert that this application contains patentable subject matter in appropriate form. Reconsideration and withdrawal of the rejections and allowance of all pending claims are respectfully solicited. If there are any additional fees due in connection with the filing of this Amendment, the Commissioner is authorized to charge such fees to our Deposit Account No. 04-1928.

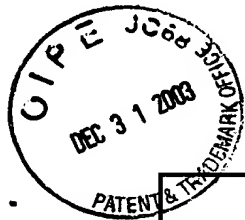
Before issuing an Office Action, applicants' attorney requests that the Examiner contact him at the telephone number below to make arrangements for a telephonic interview.

Respectfully submitted,



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10/670,529
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